

LABOUR DEPARTMENT

The 25th/29th January, 1973

No. 807-4Lab-73/2799.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of M/s. Printpak Machinery Ltd., Link Road, Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 187 of 1972

between

SHRI B. S. GULATI AND THE MANAGEMENT OF M/S PRINTPAK MACHINERY LTD.,
LINK ROAD, FARIDABAD

Present:—

Shri Onkar Parshad, for the workman.

Shri S. L. Gupta, for the management.

AWARD

The facts leading to the present reference under section 10(i) of the Industrial Disputes Act, 1947 may briefly be stated as follow :—

Shri B. S. Gulati concerned workman was in the service of M/s Printpak Machinery Ltd., Link Road, Faridabad as Accounts Clerk. The management dismissed him from service with effect from 1st March, 1972 allegedly on charge of misconduct. Feeling aggrieved, he raised a demand for reinstatement but without any success. This gave rise to an industrial dispute and the Governor of Haryana, in exercise of the powers conferred by clause (e) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947 referred the dispute for adjudication to this court,—vide order No. ID/FD/72/24846-850, dated 3rd July, 1972, with the following term of reference :—

Whether the dismissal of Shri B. S. Gulati was justified and in order? If not, to what relief is he entitled?

Usual notices were given to the parties and they have put in their respective written statements. The plea taken on behalf of the management is that Shri B. S. Gulati had committed serious acts of misconduct by not taking interest in the performance of his duties, by refusing to obey the orders of his incharge Shri S. C. Kapoor and by adopting a threatening attitude towards him for which the necessary charge-sheet was given to him. It has further been urged that his explanation to the said charge-sheet having been found to be unsatisfactory a domestic inquiry was held in which the aforesaid charges had been duly established and that being so the management was justified in dismissing him from services. On the other hand, the workman concerned has alleged that the said charges levelled against him were false and no fair and proper inquiry had been held against him by affording him reasonable opportunity to cross-examine the witnesses of the management and to produce his own evidence in defence.

The management has relied upon the domestic inquiry proceedings whereof have been brought on record in original and the Inquiry Officer Shri M. L. Chawla, Accountant of the establishment has been examined as a witness as M. W. 1. He has proved the charge-sheet, dated 17th January, 1972 Ex. M. 1, explanation of Shri B. S. Gulati to the charge-sheet Ex. M. 2, letter of his appointment as Inquiry Officer Ex. M. 3, record of the inquiry proceedings (14 leaves) Ex. M. 4, and the inquiry report containing his findings Ex. M. 5. He has denied that letter, dated 14th January, 1972 Ex. M. 6 was ever handed over to him by Shri B. S. Gulati. In cross-examination he has admitted the endorsement Ex. M. 8 at page 4 of the inquiry proceedings made by the workman to the effect that the statements of the witnesses were not being properly recorded. He has also admitted that the request made by this workman for the change of the Inquiry Officer had been refused by the management.

Shri B. S. Gulati concerned workman himself coming into the witness-box as W. W. 1 while denying the aforesaid charges levelled against him by the management has stated that the charges were not explained to him by the Inquiry Officer, that he was not allowed to be represented in the inquiry by another person, that he was not allowed to put necessary questions in cross-examination of the witnesses of the management, that he was not afforded opportunity to produce his own defence. He has further stated that the management was not represented by any person at the inquiry and the Inquiry Officer Shri M. L. Chawla

was himself conducting the inquiry on behalf of the management. The workman has further referred to a letter, dated 14th January, 1972 addressed by him to the management of which the Inquiry Officer Shri M. L. Chawla had knowledge and according to him the charge-sheet, dated 17th January, 1972 had been given to him because of and after the said letter. The other documents relied upon by him are the letter, dated 3rd February, 1972 addressed to the management Exhibit W. 1, A. D. receipt Exhibit W. 2, efficiency certificate, dated 4th January, 1972 Exhibit W. 3, another letter, dated 12th May, 1972 addressed to the management Exhibit M. 5, A. D. receipt Exhibit W. 4 and registered cover Exhibit W. 6.

The case has been fully argued on both sides and I have given a very careful consideration to the facts on record and the contentions raised by the learned representatives of the parties. The main question for determination in the case is the validity or otherwise of the said domestic inquiry against the workman concerned which is alleged to have been conducted by the management before taking the impugned action of dismissal from service against him. The charge-sheet given to him on 17th January, 1972 Exhibit M. 1 on record reads as under :—

"You were working in this organisation as Accounts Clerk. This post because surplus with us about two months back and the management could terminate your services at that time but on humanitarian grounds, you were offered alternate job in the stores and that you have been doing your works in the stores of the factory for the last 2 months.

We are receiving complaints against you that you are not taking interest in the performance of your duties. Your Incharge Mr. S. C. Kapoor asked you on 7th January, 1972 to prepare the challan to which you refuse with the result that the work was not completed by some other person. You are idling away most of your time without doing anything.

Today when Shri S. C. Kapoor called you and asked you to work properly, you misbehaved with him by shouting at him and said that you will not be doing anything and that he can do anything he likes.

Your behaviour with your colleagues is also not good although you were let off with a strict warning when you had a hand to hand fight with Mr. H. L. Gulati. The above act constitute grudge and serious misconduct under the Model Standing Order which apply as service condition to this organisation.

You are hereby directed to show-cause within 48 hours of receipt of the letter as to why disciplinary action should not be taken against you.

In the meantime you are hereby suspended from duties till further orders."

His explanation to the charge-sheet, dated 22nd January, 1972 is Exhibit M. 2 on record. It has further been urged by him that as a matter of fact he had addressed the letter, dated 14th January, 1972 Exhibit M. 6 making certain allegations against some of the officers including Shri M. L. Chawla, Inquiry Officer who had not behaved properly towards him and it was only after the receipt of this letter that false allegations of misconduct were made against him,—vide the charge-sheet referred to above. It has been stated that the letter Exhibit M. 6 was handed over by him to Shri M. L. Chawla on 15th January, 1972 who had refused to accept the same after reading its contents without the permission of the Managing Director and when he again went to deliver this letter on 17th January, 1972, 16th January being Sunday, Shri M. L. Chawla again refused to accept the same and he, therefore, sent the letter through registered post after making the endorsement to the above effect which is Exhibit W. 4. According to the workman the charge-sheet was prepared by Shri M. L. Chawla who later on held the so called inquiry as would be clear from the words M. L. C. encircled in read marked 'A' on Exhibit M. 1.

The grievance of Shri B. S. Gulati workman concerned in the present case is that Shri M. L. Chawla the Inquiry Officer was prejudiced against him because of the allegations made in his complaint, dated 14th January, 1972 Exhibit M. 6 and he had, therefore, got the false charge-sheet prepared against him and himself taken over the inquiry which was not properly conducted. The contention does not appear to be without force. According to the workman the witnesses examined on behalf of the management were not allowed to be properly cross-examined by him and he had made an endorsement to this effect in the inquiry proceedings on 15th February, 1972 Exhibit M. 8. He had also requested for the change of the Inquiry Officer but his request was declined by the management as admitted by Shri M. L. Chawla himself.

There is still another aspect of the case which goes to show that the principles of natural justice were set at naught by the Inquiry Officer as after the conclusion of the evidence of the management no opportunity appears to have been given to this workman to produce his defence. He has made a specific allegation that he wanted to produce witnesses in defence but he was not given opportunity to do so by the Inquiry Officer. The Inquiry Officer has no doubt, denied this allegation but his record is quite silent on this point. There was no statement of the workman that he did not want to produce any witness in his defence. In all fairness to the workman against whom disciplinary action was proposed to be taken reasonable opportunity should have been allowed to him to produce his defence but this was not done.

It will not be out of place to consider here that the main charge against this workman was that he was not taking interest in the performance of his duties and his work was not satisfactory. The charge-sheet is dated 17th January, 1972 but less than a fortnight earlier he had been issued the efficiency certificate dated 4th January, 1972 by Shri S. C. Kapoor, Production Plant Engineer Exhibit W. 3 on record, a perusal of which would show that his work had been found to be quite satisfactory and the said officer under whom he had been working had recommended a special increment of Rs. 25 for him. There is nothing on the record to suggest that this certificate is a forged document. It is rather surprising that this workman who had been performing his duties to the entire satisfaction of his officers till 4th January, 1972 was served without a charge-sheet after 12 days or so that complaint had been received about his work. The circumstances necessitating the subsequent change in the assessment of work and efficiency of Shri B. S. Gulati were not brought on the record. All these facts taken together give the impression that the officers concerned of the management had got displeased with him when he had made certain allegations against them through his letter, dated 14th January, 1972 and the possibility of the charge-sheet having been given to him only as a result of this letter cannot reasonably be ruled-out.

As already observed Shri B. S. Gulati had made specific allegation against Shri M. L. Chawla, that he was not conducting the inquiry properly but the management did not pay any heed to his request for the change of the Inquiry Officer. Taking into consideration the facts and the circumstances of the case as made out from the record, Shri M. L. Chawla who was entrusted with the inquiry against this workman could not be deemed to have been unbiased person, and that being so, the inquiry should have been handed over to some other independent person especially after the workman had made a request in this behalf. Shri Chawla did not conduct the inquiry in accordance with the principles of natural justice by not allowing the workman to fully cross-examine the witnesses and by not allowing him opportunity to produce his own defence. The learned representative of the management has not been able to satisfy me to the contrary on these points.

For the reason aforesaid, the so called inquiry alleged to have been held by the management against the present workman was no inquiry in the eye of law and the same has, therefore, got to be set-aside as being vitiated due to non-observance of the principles of natural justice and I order accordingly.

In view of the above, no further proceedings are called for in the case. The charge of in-efficiency or neglect of duty levelled by the management against the workman concerned being without any basis according to its own document and no fair and proper inquiry having been conducted against him in compliance with the principles of natural justice, the impugned order of his dismissal from service can not be held to be justified and in order and the same deserves to be struck down. In the result he is entitled to reinstatement with continuity of his previous service and full back wages. The award is accordingly made. The workman is also entitled to Rs. 50 as the costs of the present proceedings.

O. P. SHARMA,

Presiding Officer,

Labour Court, Haryana, Rohtak.

Dated 19th January, 1973.

No. 139, dated 22nd January, 1973

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,

Labour Court, Haryana, Rohtak.

No. 806-4Lab-73/2800.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award [of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s. Kelvinator of India Ltd., N.I.T., Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA ROHTAK.

Reference No. 225 of 1971

between

SHRI BHARAT SINGH AND THE MANAGEMENT OF M/S KELVINATOR OF INDIA LTD., N.I.T., FARIDABAD

Present :—

Shri Jaswant Singh, for the management.
memo, for the workman.

AWARD

Shri Bharat Singh concerned workman was in the service of M/s Kelvinator of India Ltd., N.I.T., Faridabad as a Pipe-Bender at Rs. 153.50 P.M. since 1st March, 1965. According to the management he absented himself from duty for more than 8 days consecutively with effect from 29th April, 1971, without any authorisation, and as such he had lost his lien on the post as per the Standing Orders of the Company. Shri Bharat Singh disputed the above contention of the management and raised a demand for his reinstatement but without any success. He gave the demand notice, dated 9th July, 1971, whereupon conciliation proceedings were initiated which ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub section (i) of Section 10 of the Industrial Disputes Act, 1947 referred the dispute for adjudication to this court—*vide* order No. ID/FD/57-7, 32293-97, dated 4th November, 1971, with the following term of reference.

“Whether the termination of services of Shri Bharat Singh was justified and in order? If not, to what relief is he entitled?”

Usual notices were given to the parties. The management filed its written statement contesting the above claim of Shri Bharat Singh with the allegation that he had since absented himself from duty for more than 3 days consecutively with effect from 29th April, 1971 without any leave or permission of the management, he was deemed to have left the service of the management and, in the circumstances, it was only a case of automatic termination of services, intimation whereof was given to him and he was also called upon to collect his dues. The case for the workman, on the other hand, is that, as a matter of fact, he had been taken ill and he had submitted his leave application but when he reported for duty on production of fitness certificate, the management did not allow him to join his duty and illegally terminated his services.

The following issues arose for determination from the pleadings of the parties:—

1. Whether the workman has deemed to have been left the Company's service under clause 8-G of the Certified Standing Orders?
2. If the above issue is found in favour of the workman, whether the termination of services of Shri Bharat Singh was justified and in order? If not, to what relief is he entitled?

Shri Bharat Singh concerned workman has examined one witness Shri Jage Ram ex-workman of the same concern besides making his own statement. The documentary evidence produced by him consists of only a medical certificate, dated 6th July, 1971 Ex. W. W. 1/1. According to him he had joined service with this concern on 1st March, 1965 as Pipe-Bender at Rs. 153.50 P.M. After working full time on 28th April, 1971 he had proceeded on leave for 2 days and he had been taken ill on 1st May, 1971 at his village at a distance of 14 miles from Faridabad. He had submitted an application for extension of his leave from 1st May, 1971 to 8th May, 1971 and another application for extension of the leave from 8th May, 1971 to 6th July, 1971 but the management did not allow him to resume his duty inspite of the fact that he had produced the medical certificate Ex. W. W. 1/1. In cross-examination he has admitted the attendance cards Ex. M. 1, M. 3 wherein the date of his appointment is given as 1st March, 1966 and not 1st March, 1965 as stated by him and his application for appointment, dated 1st February, 1966 Ex. 2 and the letter Ex. M. 4 received from the management. He has further admitted that he was covered by the Employees State Insurance Scheme. Shri Jage Ram W. W. 2 has deposed that Shri Bharat Singh had given him 5 or 6 application from time to time on 1st May, 1971, 15th May, 1971, 24th May, 1971 and then on 8th June, 1971 and the same had been handed-over by him to the Foreman. In cross-examination he has admitted that his services had also been terminated by the management.

The management, on the other hand, has examined one witness Shri J. Paul Agochiya, Superintendent, Research and Development Department of the concern who has deposed that Shri Bharat Singh had absented himself from duty for more than 8 days after 29th April, 1971 onwards without any authorisation, and he had, therefore, lost his lien on the post held by him as per the Certified Standing Order 8(G) (ii) and his name had consequently been struck off the rolls, intimation whereof was given to him,—*vide* letter, dated 12th/13th May, 1971 Ex. M. 4.

The case has been argued on both sides and I have considered the facts on record. There is no denying the fact by Shri Bharat Singh concerned workman that he had not attended his duty continuously for more than 8 days after 29th April, 1971. His contention is that, as a matter of fact, he had been taken ill and he had sent his applications for the extension of his leave from 1st May, 1971 to 8th May, 1971 and then from 8th May, 1971 to 6th July, 1971 through his co-worker Shri Jage Ram which is denied by the management. The leave applications in question have not been proved nor summoned from the management. Shri Bharat Singh did not even appear to cross-examine Shri J. Paul Agochiya M. W. 1 to whom the leave applications are alleged to have been delivered. Admittedly, this workman is covered by the Employees State Insurance Scheme but no medical certificate from the E. S. I. Dispensary was produced by him nor

any submitted to the management along with the said application for extension of his leave. The management sent to him the necessary intimation regarding loss of lien on the post and this striking off his name from the rolls as per the Standing Orders of the Company,—*vide* letter, dated 12/12th May, 1971 copy Ex. M. 4. He has admitted the receipt of this letter and the fact that he did not send a y reply to this communication. If he had really been taken ill and had no intention of absenting himself from duty without proper authorisation, he would have lost no time in sending a replv to this communication explaining the cause of his absence from duty due to illness and the fact that he had submitted his applications for extensions of the leave through co-worker Jage Ram. His conduct even after the receipt of the said communication from the management shows that the so called illness and production of the certificate Ex. W. W. 1/1 from a private practitioner was only an after-thought.

The fact, therefore, remains that this workman had absented himself from duty for more than 8 days continuously, without any proper authorisation, and as such he had lost his lien on the post held by him, as per the Standing Order 8(G)(ii) of the Company and the management as perfectly justified in striking off his name from the rolls. Issue No. 1 is accordingly held against him. Issue No. 2 consequently does not arise as the workman having himself abandoned the job by remaining absent from his duty, without any proper authorisation, the question of the termination of his services by the management did not arise. It was, in fact, a case of the automatic termination of his services due to his own conduct.

Shri Bharat Singh concerned workman is thus not entitled to any relief in the present reference which is accordingly answered against him. There shall be no order as to costs.

Dated 16th January, 1973.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 138, dated 22nd January, 1973

Forwarded (four copies) to the Secretary to Government of Haryana, Labour Departments, Chandigarh as required under Section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

The 30th January, 1973

No. 844-4Lab-73/3145.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act. No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Municipal Committee, N.I.T., Faridabad.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Reference No. 21 of 1970

between

THE WORKMEN AND THE MANAGEMENT OF M/S MUNICIPAL COMMITTEE, N.I.T.,
FARIDABAD

Present:—Shri Bhim Singh Yadav and Shri Siri Ram, for the workmen.

Shri A.J.S. Chadha, for the management.

AWARD

The following disputes between certain workmen of erstwhile Municipal Committee, N.I.T., Faridabad, Administration whereof has since been taken over by the Faridabad Complex Administration were referred for adjudication to this Tribunal by the Governor of Haryana in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947,—*vide* order No. ID/FD/206F/3544, dated 6th February, 1970.

1. Whether the workers employed under water supply scheme should be confirmed. If so; from which Nate and with what details?

2. Whether the assistant drivers actually working as drivers should be designated as drivers. If so; from which date and with what details?

On receipt of the order of reference usual notices were given to the parties and they put in their respective written statements. In the statement of claim filed on behalf of the workmen, it was urged that the workmen covered by item No. 1 of the reference list enclosed had not been confirmed although they had been working against permanent posts for more than one year and had been classified as temporary workmen thus depriving them of the benefits of leave, house-rent allowance, free residential accommodation, Uniforms, Gratuity and other retirement benefits available to the permanent workmen. It was further urged that the Assistant Drivers covered by item No. 2 of the reference were actually performing the duties of the drivers and were entitled to be designated and paid as drivers. In the written statement filed on behalf of the management (then Municipal Committee N.I.T., Faridabad) the aforesaid demands made by the workmen concerned were contested on merits besides raising some legal objections. To begin with it was urged that the Municipal Committee N.I.T. Faridabad was not an industry and there was no industrial dispute within the meaning of the Industrial Disputes Act, 1947 which could validly be referred for adjudication to this Tribunal. It was further urged that the Municipal Committee Water Supply Workers Union which had raised the dispute has no representative character. A plea of the settlement of the dispute between the parties on 5th September, 1969 was also raised and a document purporting to be a copy of the said agreement was also placed on record. In their replication the workmen controverted the above pleas raised on behalf of the workmen.

The following four preliminary issues arose for determination from the pleadings of the parties—

1. Whether the industrial dispute referred to this Tribunal is vague and is liable to be rejected?
2. Whether the Municipal Committee Water Supply Workers Union has no representative character and for this reason the reference is not invalid?
3. Whether the reference is barred by the settlement, dated 5th September, 1969?
4. Whether the respondent committee is not industry and for this reason the reference is not invalid?

My learned predecessor found all the four issues in favour of the workmen and against the management,—*vide* his order, dated 29th May, 1970 and directed the representative of the workmen to furnish the following details with regard to item No. 1 of the order of reference.

- (1) The name of the workmen who have not been confirmed.
- (2) The post on which they are working.
- (3) The date of their employment.

The representative of the management, the then Municipal Committee, N.I.T., Faridabad was also directed to supply the following information with regard to item No. 2 of the order of reference.

- (1) The duties of the drivers and their grades of pay.
- (2) The duties of the Assistant Drivers and their grades of pay.

Three witnesses have been examined on behalf of the workmen including W.W.1 Shri Birbal Singh, Driver, W.W.2 Shri Harish Chander, Assistant Driver, W.W.3 Shri Siri Ram, Assistant Driver; Copies of certain proceedings in the Court of the sub-judge at Ballabgarh have also been produced but the same have not been got duly proved and exhibited.

The management has examined only one witness Shri Krishan Lal Gulati, Assistant Secretary, Municipal Committee, N.I.T., Faridabad who has proved the demand notice, dated 23rd June, 1969 Exhibit M.W. 1/1, copy of the resolution passed by the Municipal Committee on 4th November, 1969 Exhibit M.W.1/2, copy of the agreement, dated 5th September, 1969 Exhibit M.W. 1/3, copy of the requisition from the Employment Exchange for appointment of Tubewell Drivers Exhibit M.W. 1/4, the covering letter Exhibit M.W.1/5, requisition made for appointment of Assistant Tubewell Drivers, Exhibit M.W.1/6, covering letter Exhibit M.W. 1/7, another requisition in respect of the Tubewell drivers Exhibit M.W. 1/8, the duty charts of the Tubewell drivers and the Assistant Drivers for various months Exhibit M.W. 1/9 to Exhibit M.W.1/15, List of the Tubewell drivers Exhibit M.W. 1/16, authority letter Exhibit M.W.1/17, copy of the Business Bye-Laws Exhibit M.W. 1/18.

The authorised representative of the management brought on record some more documents, namely, list of Assistant Tubewell drivers including those who had since been confirmed Exhibit C-1 and those who were still on probation list Exhibit C-2, List of Tubewell drivers who had been confirmed Exhibit C-3, another list of the Tubewell staff working under the Faridabad Development Board Exhibit C-4, statement showing procedure for confirmation of the Municipal Employees Exhibit C-5. Specimen appointment letters Exhibit C-6 to C-10 and specimen confirmation letters Exhibit C-11 to Exhibit C-15.

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After the close of the above evidence on behalf of the parties arguments in the case were heard. Then an application was moved on behalf of the workmen concerned that the Municipal Committee, N.I.T., Faridabad had since ceased to exist and the Administration had been taken over by the Faridabad Complex Administration. It should be impleaded as a party in the present reference. This request of the workmen was allowed after hearing the authorised representative of the said Administration which was made a party to the present proceedings. The parties have not considered it necessary to file any further pleadings nor have they led any further evidence, oral or documentary, on the remaining issues which are precisely the same as per the terms of the reference given above.

Arguments have further addressed at length on both sides and I have given a careful consideration to the facts on record and the contentions raised by the learned representatives of the parties.

As would be clear from the order of reference the demand for confirmation of the workers employed under the water supply scheme is of a general nature. It does not relate to any particular individual workman and no list of the workmen covered by this demand was filed along with the character of demands nor was any such list received along with the order of reference. It was not filed even along with the statement of claim. Subsequently however the necessary list have been brought on record. There is not much of dispute with regard to this particular demand of the workmen and it has been conceded on principle that the workmen concerned are entitled to be confirmed on completion of service for one year. In fact the management has already confirmed most of the workers concerned barring a few against whom there were allegedly some complaints as would be clear from the lists of the confirmed and unconfirmed workmen filed in the case. It has been urged on behalf of the workmen that the confirmation of some of them has not been made with effect from the due dates while the confirmation of others has been withheld without any justification. Since the demand is of a general nature, as already observed I am not called upon to go into individual cases. Issue No. 1 is accordingly decided in favour of the workmen and it is held that they are entitled to be confirmed with effect from the date of their completion of service for one year. If, however, the confirmation of any individual workman is withheld by the management because of any complaint against his work or conduct in the discharge of his duties or otherwise he can seek his remedy by approaching the management or by raising a regular dispute if so advised.

Issue No. 2

As for the other demand that the Assistant Driver should be designated as drivers covered by item No. 2 of the order of reference, the workmen concerned have apparently made out no good case and their claim is not well founded. The posts of both the drivers and the Assistant Drivers were in existence when they had joined service. The management had made separate requisitions to fulfill the vacancies prescribing different sets of qualifications for drivers and Tubewell Drivers. For instance, an Assistant Tubewell Driver was required to possess only one year practical experience on any Government or private Tubewell whereas a candidate for the post of Driver was required to possess minimum experience for 5 years in this line and knowledge of the job of mechanic capable of repairing the machinery of Tubewells whether run by Diesel or Electric power. The grades and scales of pay of the Assistant Tubewell Drivers and the Drivers were also admittedly different. In the circumstances the post of an Assistant Tubewell Driver could not be equated with that of the Driver.

Much stress has been laid on behalf of the workmen concerned that as a matter of fact they were actually performing the same nature of duties as were carried out by the drivers. This has been disputed on behalf of the management and taking into consideration the facts and the circumstances of the case it can not be held that the drivers and the Tubewell Drivers with different sets of qualifications and experience have been performing the same kind of duties so as to designate all of them as drivers. The number of the drivers and the Assistant Tubewell Driver has been increasing from time to time depending upon the number of the Tubewells operated by them. The management has to take into consideration its own requirements and the funds at its disposal to determine the strength of the Drivers and the Assistant Tubewell Drivers required by it.

The learned representative of the management has further drawn my attention to a document marked Ex. M.W. 1/3 and contended that this demand was given up by the workmen under a settlement with the management. A perusal of the document would no doubt show that the demand of the Assistant Drivers for promotion as Drivers was proposed to be dropped. There is, however, nothing on the record to show as to how and under what circumstances this document dated 5th September, 1969 of which Ex. M.W. 1/3 is a copy was executed and whether the present claimants (Assistant Drivers) were a party to that document or not. This document has been described as a short recital of the demands of the Water Supply Union arrived at the office of the Municipal Committee, Industrial Township Faridabad on 5th September, 1969. In the absence of necessary evidence it can not be treated as a settlement either under section 12(3) or section 18(1) of the Industrial Disputes Act, 1947 so as to bind the present claimants regarding their demand for their designation as Drivers instead of Assistant Drivers. In other words their present demand can not be held to be barred by any settlement dated 5th September, 1969. However, as I have already discussed in detail, this demand is otherwise not well founded and the workmen concerned have simply failed to establish the same. The Issue is accordingly decided against them and it is held that the Assistant Drivers who are actually performing the duties as such are not entitled to be designated as Drivers. This, however, would not mean that they are not entitled to be promoted as drivers if and when vacancies occur and it has been stated on behalf of the management that some of them have already been promoted as Drivers.

In view of my above findings on the issues involved in the case, it is held that the workmen concerned are not entitled to any relief so far as item No. of the order of reference is concerned and it cannot be held that all the Assistant Drivers are entitled to be designated as drivers. The claim of the workmen employed under the Water

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Supply scheme for confirmation as covered by item No. 1 of the reference, is, of course, justified and they are entitled to be confirmed on completion of their service for one year in the light of my finding on issue No. 1. The award is made accordingly. No order as to costs.

Dated the 16th January, 1973.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 66, Dated 17th January, 1973

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 16th January, 1973

O.P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 845-4Lab-73/3147.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act. No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/S Precision Steel and Engineering Works, 14/4, Mathura Road, Faridabad.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Reference No. 64 of 1972

Between

SHRI MADAN LAL WORKMAN AND THE MANAGEMENT OF M/S PRECISION STEEL AND
ENGINEERING WORKS, 14/4, MATHURA ROAD, FARIDABAD.

Present:—Shri B.M. Gupta for the workman.

Shri S.L. Gupta for the management.

AWARD

By order No. ID/FD/72/39472, dated 13th November, 1972 of the Governor of Haryana the following dispute between the management of M/s Precision Steel and Engineering Works, 14/4 Mathura Road, Faridabad and its workman Shri Madan Lal was referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Madan Lal was justified and in order? If not; to what relief is he entitled?

The parties have arrived at an amicable settlement. Shri Madan Lal concerned workman has settled his account and received payment of his dues in full and final settlement of his entire claims against the management and there is now no dispute left between the parties as stated by the ir authorised representatives.

[In view of the above, a no dispute award is made as desired by the parties. No order as to costs.

Dated the 18th January, 1973.

O.P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 78, Dated the 18th January, 1973

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 18th January, 1973.

O.P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.